

RECEIVED
CENTRAL FAX CENTER

AUG 03 2007

Remarks/Arguments

The Examiner has rejected claims 5-7 under 35 U.S.C. § 103, as obvious over Wares in view of Gindlesperger.

Applicant respectfully disagrees. These references do not disclose all of the elements of the claims and the claims are not obvious for the following reasons.

First, the Examiner's statement on page 2 of the office action, that Wares teaches a process for competitive bidding, is not an accurate characterization of Wares. Wares discloses a process of bidding, but not competitive bidding. (See Declaration of Tariq Khalidi, ¶ 2.) A bid does not have to be competitive. Wares teaches an e-commerce bid and a project management system and method for the construction industry. The method of Wares (see abstract and Figs. 2 and 3) automates a conventional project management system, which, in the construction industry, issues requests for bids by owners or architects to general contractors, who in turn request bids from subcontractors, who in turn request bids from suppliers and manufacturers. (*Id.*)

In contrast, Applicant's invention as claimed is a method of automated competitive bidding. This method automates competitive bidding by extracting the best value for the acquisition without paying for non-value add items. (See Khalidi Declaration, ¶ 3.) This is not true of Wares' system which uses a general contractor, subcontractor, supplier, etc. in a sequence. Applicant's method is for competitive bidding, as described in the abstract ("...packages, processes, connects, procures, bids and reports the competitive bidding cycle..."), Figs. 1B, 1C, and 2, and on pages 33-36. Applicant's method requires sequestering of the original acquisition into competitive and non-competitive packages. Such packages communicate directly to other tiers as a "mix-and-match." The competitive and non-competitive packages are reassembled upon completion of the competitive bidding cycle. For example, in Figure 2, Tier 0 (generally the owner or the owner's representative) requests and receives bids from Tiers 1, 2 and 3, but also requests and receives bids directly from Tier 4 for certain items that Tier 4 suppliers can bid competitively to Tier 0, bypassing Tiers 1, 2 and 3. Similarly, Tier 0 requests and receives bids directly from a Tier 5 supplier who can bid competitively to Tier 0. (*Id.*)

Second, the Examiner's conclusion on page 3 that the claimed steps of "presenting the bid as well as any additive alternatives or deductive alternatives; reporting the bid in a plurality of formats; and transmitting the bid to a sequential buyer" are required and inherent in Wares is not correct. The method of Wares (the "general contractor an all inclusive bid...refer to bid information flow...") does not inherently include a method for competitive bidding. (See Khalidi Declaration, ¶ 4.) As stated above, Applicant's method is for competitive bidding for goods and services by buyers and sellers at multiple tiers; it is not limited to the general contractor and subcontractors. (*Id.*)

Third, there is no basis for the Examiner's conclusions on page 3 that "sequestering portions of an RFP into competitive module(s) for competitive bid and non-competitive module (s) for non-competitive bid is old and well known in the art of project management" and that "it would have been obvious to one of ordinary skill in the art to formulate the bid according to the foregoing process..." While those skilled in the art of project management may have thought it advantageous to be able to sequester portions of an RFP into competitive and non-competitive modules, such a process has not been developed due to the cumbersome and complex nature of project management and the many variables that exist. (See Khalidi Declaration, ¶ 5.) Applicant's claimed invention is a method that implements this process in an automated fashion and results in tremendous cost savings to its users.

Accordingly, claims 5-7 are patentable.

Applicant respectfully requests that the Examiner pass this case to issue.

Date: August 3, 2007

Respectfully submitted,

By 
Audrey A. Millemann (Reg. No. 44,942)
Attorney for Applicant
Weintraub Genshlea Chediak
Law Corporation
400 Capitol Mall, 11th floor
Sacramento, Ca 95814
(916) 558-6033